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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/558,769	11/30/2005	John Gerard Beerends	05-1018	6636
20306 7590 10/16/2008 MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP 300 S. WACKER DRIVE 32ND FLOOR CHICAGO, IL 60606				
EXAMINER				
LIU, BEN H				
ART UNIT		PAPER NUMBER		
2416				
MAIL DATE		DELIVERY MODE		
10/16/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/558,769

Applicant(s)

BEERENDS ET AL.

Examiner

BEN H. LIU

Art Unit

2416

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This is in response to an amendment/response filed on June 27th, 2008.
2. Claims 1, 3, 9, 10, and 11 have been amended.
3. No claims have been cancelled.
4. No claims have been added.
5. Claims 1-11 are currently pending.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Veres et al. (U.S. Patent Number 6,807,156).

For claim 1, Veres et al. disclose a method for determining a user perceived quality indicator (*see column 4 lines 64-66, which recite analysis methods to gain measures about true user perceived quality of service*)

for end-to-end data transfer comprising measuring at least one wireless system performance indicator (*see column 5 lines 5-17, which recite the method for measuring rue user perceived quality of service used in a wireless network such as GPRS and UMTS*)

during transfer of a predefined data type specimen (*see column 11 lines 34-38, which recite measuring microflow statistics for a predefined FTP file download*), and

calculating the user perceived quality indicator for said predefined data transfer type and for at least one other data transfer type from said measurement (*see column 4 lines 44-53, which recite service dependent analysis to determine the quality of service perceived by subscribers for different data transfer types such as FTP and WWW*).

For claim 2 and 11, Veres et al. disclose a method and system for determining a perceived quality indicator for end-to-end data transfer in which the at least one system performance indicator comprises at least one lower network layer performance indicator further comprising measuring at least one other lower network layer performance indicator and mapping the at least one other lower network layer performance indicator to the perceived quality indicator (*see column 4 lines 62-67, which recite using quality of service parameter metrics to gain measurements about user perceived quality of service*).

For claim 3, Veres et al. disclose a method for determining a perceived quality indicator for end-to-end data transfer in which the mapping is a linear mapping (*see column 4 lines 62-67, which recite using two or more parameters used to determine the quality of service perceived by the user*).

For claim 4, Veres et al. disclose a method for determining a perceived quality indicator for end-to-end data transfer in which the at least one lower network layer performance indicator is a modified lower network layer performance indicator (*see column 5 lines 26-30, which recite a monitored subset performance indicator that is changed to remain representative of active subscribers*).

For claim 5, Veres et al. disclose a method for determining a perceived quality indicator for end-to-end data transfer in which integer values of the at least one lower network layer performance indicator are mapped to real values (*see column 16 lines 15-31, which recite mapping integer values of a performance indicator into real values of the delay variance*).

For claim 6, Veres et al. disclose a method for determining a perceived quality indicator for end-to-end data transfer in which the at least one lower network layer performance indicator is the throughput speed, and the quality indicator is derived from the measured throughput speed using a moving window averaging estimation, in which the size of the moving window corresponds to the at least one other data transfer type (*see column 11 lines 3-22, which recite deriving the average download throughput based upon the download throughput quality indicator*).

For claim 7, Veres et al. disclose a method for determining a perceived quality indicator for end-to-end data transfer in which a final quality indicator is calculated from the percentage increase in the quality indicator for the at least one other data transfer type (*see column 11 lines 3-22, which recite deriving the delay variation quality indicator from the delay quality indicator*).

For claim 8, Veres et al. disclose a method for determining a perceived quality indicator for end-to-end data transfer in which the method further comprises the step of analyzing the contribution of each of the at least one lower network layer performance indicator (*see column 15 lines 49-56, which recite the most important quality of service performance indicators*).

For claim 9, Veres et al. disclose a method for determining a perceived quality indicator for end-to-end data transfer in which the predefined data transfer type specimen is a FTP

download of a large size data file (see column 11 lines 34-45, which recite measuring the performance indicators for microflows including FTP).

For claim 10, Veres et al. disclose a measurement system for determining a user perceived quality indicator (see column 4 lines 64-66, which recite analysis methods to gain measures about true user perceived quality of service) for end-to end data transfer in a wireless data network (see column 5 lines 5-17, which recite the method for measuring rue user perceived quality of service used in a wireless network such as GPRS and UMTS) comprising a data network analysis system for measuring at least one lower network layer performance indicator (see column 5 lines 57-60, which recite measuring QoS metrics of lower network layer performance indicators such as packet loss detection of stalled periods, and estimation of path delay), using a predefined data transfer specimen (see column 11 lines 34-38, which recite measuring microflow statistics for a predefined FTP file download), in which the measurement system is further equipped with processing means which are arranged for deriving the user perceived quality indicator for at least one other data transfer type from the at least one lower network layer performance indicator (see column 16 lines 14-50, which recite using measured quality of service metrics to generate user perceived performance indicators such as the aggregated traffic rate which is a relatively precise indication of the throughput efficiency).

Response to Arguments

8. Applicant's arguments filed June 27th, 2008 have been fully considered but they are not persuasive.

The Applicant has amended independent claims 1 and 10 to include the limitations: "measuring at least one wireless system performance indicator during transfer of a predefined data type specimen, and calculating the user perceived quality indicator" as recited in claim 1 and "determining a user perceived quality indicator for end-to-end data transfer in a wireless data network" as recited in claim 10.

The Applicant argues that the recited reference Veres et al. (U.S. Patent 6,807,156) "does not teach determining a user perceived quality indicator, let alone determining a user perceived quality indicator for end-to-end data transfer in a wireless data network (emphasis added)" in page 7 lines 1-3 of the Applicant's remarks. However, it is noted that the quality of service monitoring and analysis method and system as disclosed by Veres et al. is designed to determine a user perceived quality of service (*see column 4 lines 64-67*). It is further noted that the method and system is designed to operate in a wireless network such as GPRS and UMTS (*see column 5 lines 5-17*). Thus, the quality of service monitoring and analysis method and system as disclosed by Veres et al. is able to determine a user perceived quality indicator for end-to-end data transfer in a wireless data network.

For at least the reasons provided above, the Applicant's arguments regarding independent claims 1 and 10 are not persuasive. The Applicant further argues that dependent claims 2-9 and 11 are patentable at least by virtue of their dependencies. Since the Applicant's arguments

regarding independent claims 1-2, 13, and 15-16 are not persuasive, dependent claims -9 and 11 have not been found to be allowable.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BEN H. LIU whose telephone number is (571)270-3118. The examiner can normally be reached on 9:00AM to 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on (571)272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ricky Ngo/
Supervisory Patent Examiner, Art Unit
2616

BL